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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,706	06/19/2001	Patrick W. Breslin	57111-5061	4055
24574	7590	01/14/2005	EXAMINER	
JEFFER, MANGELS, BUTLER & MARMARO, LLP 1900 AVENUE OF THE STARS, 7TH FLOOR LOS ANGELES, CA 90067			LUGO, CARLOS	
		ART UNIT		PAPER NUMBER
		3676		
DATE MAILED: 01/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/884,706	BRESLIN ET AL.
	Examiner Carlos Lugo	Art Unit 3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 20 September 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-29 is/are pending in the application.
  - 4a) Of the above claim(s) 30-42 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5,15,16,18,19 and 23-25 is/are rejected.
- 7) Claim(s) 2-4,6-14,17,20-22 and 26-29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 June 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input checked="" type="checkbox"/> Other: <u>Attachment #1</u>

## DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on September 20, 2004.

### ***Claim Objections***

2. **Claim 23 is objected** to because of the following informalities:
  - Claim 23 Line 8, the phrase "shaft assembly" as been changed to -first object-. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1,5,6,18,19 and 23-25 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,003,614 to Geer et al (Geer).

Regarding claim 1 and 23-25, Geer discloses a latching system base (11') and a closable member (12,13 and 14).

An elongated member (20) is rotatably secure to the closable member. The elongated member includes a first connector (19) and a fork member (21) secure to the elongated member.

A latch plate assembly is hingedly secure to the closable member (at 17). The assembly includes a handle (16) and a latch lever (16a) extending from the handle. The latch lever is in mechanical communication with the fork member (21).

As to claim 5, Geer discloses that the fork member (21) includes a tube (22) having the forks extending therefrom (Figure 4).

As to claim 6, Geer illustrates that the latch lever (16a) includes an engaging member having at least one opposed knob extending therefrom (the end of 16a) and engaging at least one fork of the fork member (Figure 4).

As to claim 18, Geer discloses that the closable member (12,13 and 14) is adapted to engage the base (11').

As to claim 19, Geer discloses that the handle includes a handhold end (44 and 45) and a hinge end (connection of 16 and 16b), wherein the handholds end has a serration defined therein.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 15 and 16 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,003,614 to Geer et al (Geer).

Regarding claim 15, Geer fails to disclose that the handle is made of aluminum. Geer discloses and illustrates that is made of metal. However, aluminum is a well-known material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the handle made of aluminum, in order to use the characteristics of the material in favor of the construction of the handle.

As to claim 16, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

***Allowable Subject Matter***

7. **Claims 2,3,12,26 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4,6-11,13,14,17,20-22,27 and 28 would also be allowed because the claims depend from claims 2,3,12,26 and 29 respectively.**

***Response to Arguments***

8. Applicant's arguments filed on September 20, 2004 have been fully considered but they are not persuasive.

Regarding applicant's arguments with respect to the objection to the specification regarding the use of the word clevis (Page 9 Line 16), applicant's arguments are persuasive; therefore, the objection is withdrawn.

Regarding applicant's arguments that Geer fails to disclose a fork member (Page 11 Line 1), Geer discloses a fork member. As shown in Figure 4, element 21 is a fork member that receives a part of the handle 16 through the space between the arms of the fork (see attachment #1).

**Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo

AU 3676  
Jan. 9, 2005



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

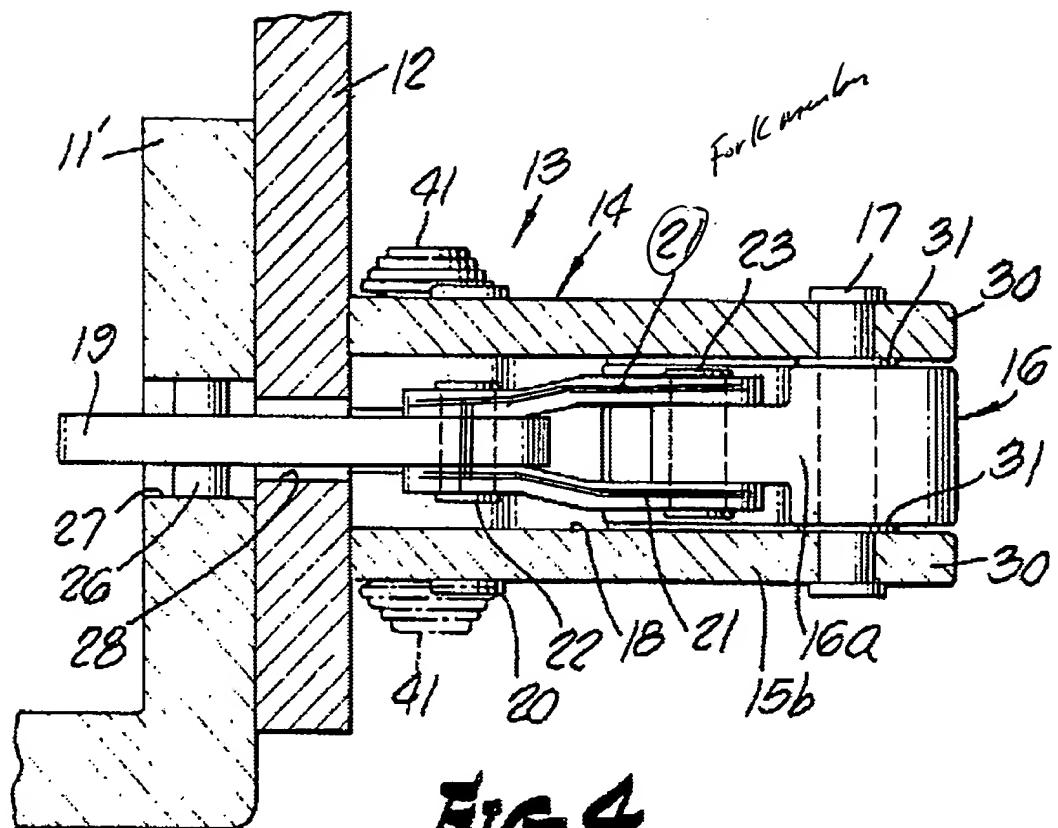


FIG. 4.

Attachment #1